

PS5070.10 JUDICIAL RECOMMENDATIONS AND US ATTORNEY REPORTS,  
RESPONSES TO



# Program Statement

OPI: CPD  
NUMBER: 5070.10  
DATE: June 30, 1997  
SUBJECT: Judicial Recommendations and  
U.S. Attorney Reports,  
Responses to

1. PURPOSE AND SCOPE. To establish procedures for responding to Judicial and U.S. Attorney recommendations included in the following forms:

- # Report on Committed Offender (AO 235)(Attachment A),
- # Judgment in a Criminal Case (AO 245B)(Attachment B),
- # Amended Judgment in a Criminal Case (AO 245C)(Attachment C),
- # Judgment in a Criminal Case for Revocations (AO 245D)(Attachment D), and
- # Report on Convicted Prisoner by United States Attorney (USA-792)(Attachment E).

Courts communicate recommendations about inmates to the Bureau and the U.S. Parole Commission (USPC) through various forms. While forms AO 235 and USA-792 are for "old law" cases only, they are still in use, and Bureau staff must know how to process them.

2. PROGRAM OBJECTIVE. The expected result of this program is:

Responses to Judicial and U.S. Attorney recommendations will be provided in an accurate and timely manner.

3. DIRECTIVES AFFECTED

a. Directive Rescinded

PS 5070.09      Judicial Recommendations and U.S. Attorney  
Reports, Responses to (08/13/96)

b. Directives Referenced

PS 5100.06      Security Designation and Custody  
Classification Manual (06/07/96)  
PS 5322.10      Classification and Program Review of Inmates  
(09/04/96)  
PS 5800.09      Central File, Privacy Folder, and Parole  
Mini-files (07/21/93)

4. STANDARDS REFERENCED

a. American Correctional Association 3rd Edition Standards for Adult Correctional Institutions: 3-4273, 3-4285.

b. American Correctional Association 3rd Edition Standards for Adult Local Detention Facilities: None.

c. American Correctional Association 2nd Edition Standards for Administration of Correctional Agencies: None.

d. American Correctional Association Standards for Adult Correctional Boot Camp Programs: None.

5. BACKGROUND. The Court Order (AO 245) was and still is used to transmit information to the Bureau of Prisons and the U.S. Parole Commission concerning defendants committed to the custody of the Attorney General. The AO 235 is commonly used in "old law" cases. In July 1990, the AO 245 (for Offenses Committed Prior to November 1, 1987) and the AO 245S (for Offenses Committed on or after November 1, 1987) were developed and titled Judgment in a Criminal Case. In 1995, the format was revised and the AO 245 was separated into three different documents (AO 245B, AO 245C, and AO 245D). The AO 245B superseded the AO 245S.

A Judgment and Commitment (J&C) Order is the official court record used to report the sentence in a criminal case, and the information recorded in it must accurately reflect the record and the judge's intentions.

In March 1995, the Judicial Conference of the United States adopted the nationwide use of standard J&Cs to:

- # ensure all significant information required by all components of the criminal justice system is included,
- # address several provisions of the Violent Crime Control and Law Enforcement Act of 1994, and
- # enhance criminal debt collection and assist the Administrative Office of the United States Courts in the national implementation of the United States Courts National Fine Center.

6. MCC/MDC/FDC/FTC PROCEDURES. Procedures specified in this Program Statement are applicable to Metropolitan Correctional Centers, Metropolitan Detention Centers, Federal Detention Centers, and Federal Transfer Centers when designated for inmates for service of their sentence.

This Program Statement is not applicable to pretrial and holdover inmates.

## 7. JUDICIAL AND ATTORNEY RECOMMENDATIONS

a. The Report on Committed Offender (AO 235) provides judges and defense attorneys a means to communicate recommendations to the Bureau and USPC. The AO 235 is applicable only to "old law" cases.

b. The Judgment in a Criminal Case (AO 245B) communicates the sentence imposed and any court recommendations regarding a specific institution or specialized program(s).

c. The Amended Judgment in a Criminal Case (AO 245C) reflects any changes to the original sentence including corrections, modifications, and resentencings. While it is almost identical to the AO 245B, it alerts readers that a previous judgment has been entered, and indicates the reason for the amendment.

d. The Judgment in a Criminal Case for Revocations (AO 245D) reflects the findings of the court and any recommendations following a revocation of probation or supervised release.

e. The Report on Convicted Prisoner by United States Attorney (USA-792) is completed by the Assistant U.S. Attorney (AUSA) for all inmates sentenced prior to November 1, 1987, who receive a prison term of more than one year ("old law" cases). While this form is intended for USPC use concerning parole decision-making, it provides Bureau staff with information about the case often not found in the presentence investigation report.

8. PROCEDURES. The Bureau responds in writing to a judicial recommendation for an inmate's placement in a specific institution, geographic area, or program.

A response to a judicial recommendation is made only when the Bureau determines that a different designation from the judicial recommendation is appropriate or when a recommendation for program participation is not followed.

Staff shall include the inmate's register number and applicable docket number(s) in all correspondence to the Federal courts.

a. Community Corrections Manager (CCM). Usually it is the CCM office in the inmate's sentencing district that receives all Court and U.S. Attorney recommendations. The CCM enters all institutional and/or program recommendations into SENTRY (Inmate Load and Security Designation form) for the Regional Designator's review and designation.

In certain circumstances, the CCM is authorized to designate an institution for an inmate (short-termers, misdemeanor, direct CCC commitments, contract jails). When the CCM has questions

concerning the appropriateness of a recommendation, the Regional Designator shall be consulted.

When the court's recommendation regarding an institution and/or geographic location is not followed, the Regional Director shall write a letter to the court explaining the reason(s) for this decision within five working days after designation.

AUSAs may submit USA-792s on inmates who were sentenced prior to November 1, 1987. The CCM shall send the USA-792, along with other classification materials to the designated facility within two working days after initial designation.

b. Regional Office. When the designation differs from a judicial recommendation for a **specific institution or geographic area**, the Regional Director shall normally provide written notification to the court explaining the reasons for the decision within five working days after designation.

Ordinarily, the Warden at the designated institution responds to routine program recommendations; however, some responses to recommendations for specialized programs (Intensive Confinement Center, Sex Offender, Drug Treatment, etc.), may require a **regional** response when non-compliance is based on reasons unrelated to program qualifications and eligibility (i.e., population management concerns).

When a court recommends both a specific institution or geographic area **and** a program, the Regional Director shall respond to that segment of recommendations relating to location and/or type of facility. The Warden shall respond regarding the recommended program(s) within the time frames established in Section 8.d.

The regional office response is forwarded to the designated institution for inclusion in the inmate central file. The Designator shall indicate in the SENTRY generated Initial Designation screen "Remarks" section whether the recommendation(s) have been followed and if a written response has been made. Regional office staff shall maintain a judicial response tracking system to include:

- # the inmate's name,
- # register number,
- # date response was mailed, and
- # the sentencing judge's name.

c. Central Office. When the Central Office designates an institution for an inmate, they shall respond to the judicial recommendation(s) using the procedures, time frames, and response tracking recommendations established in Section 8.b.

(1) Correctional Programs Division. The Assistant Director, Correctional Programs Division, shall respond in writing to judicial recommendations for placement in a specific institution or a geographic area when the case is referred by the Washington D.C. Superior Court, or involves special circumstances requiring Correctional Programs Division designation authority.

(2) Health Services Division. The Assistant Director, Health Services Division, shall respond in writing to judicial recommendations for a specific institution or geographic area only when the recommendation is not followed when an inmate is designated by the Medical Designator.

d. Institution. The Warden (including CCMs) shall respond in writing to judicial **program recommendations** (i.e, CIM, drug treatment, vocational training) on the AO 235, AO 245B, AO 245C, or AO 245D only when the inmate is designated to an institution which does not offer the program(s) recommended by the court.

The Warden's response shall be completed within 35 days of the inmate's arrival at the institution.

(1) Executive Tracking and Log System. An Executive Staff member shall maintain and monitor a tracking system to ensure timely and accurate responses. This log shall include the following elements in the listed sequence:

- P Name
- P Register No.
- P Subject Area
- P Staff Member Assigned
- P Date of Inmate's Arrival
- P Date Response Due
- P Date Response Mailed and
- P Other Information (**optional**).

A secretary may maintain this log but an Executive Staff member shall monitor it.

(2) Unit Staff. Unit staff shall review the AO 235, AO 245B, AO 245C, or AO 245D at an inmate's initial classification to identify any judicial recommendation(s) and design a program plan consistent with it.

Staff shall also review the court order to determine if the program or placement conflicts with the judicial recommendation (this additional review is to ensure that during prior reviews, any judicial recommendations were not inadvertently missed).

A response to a defense attorney's AO 235 is not required; however, the Unit Team shall review and consider the written comments and file the form in section 1 of the inmate central file.

Unit staff should contact the appropriate Designator whenever a question arises regarding the accuracy or completion of judicial responses pertaining to placement at a specific institution or in a specific geographic location.

e. Change of Designation. Occasionally, a Designator may designate an institution for an inmate without knowledge of a court recommendation. If a court recommendation regarding an inmate's placement is subsequently received at the institution, and the original designation conflicts with that recommendation, unit staff shall immediately notify the appropriate Designator.

Regional or Central Office staff shall advise institutional staff of their decision regarding the court's recommendation and provide instructions for purposes of transfer or possible application of a management variable. The Warden shall notify the court of the final decision regarding any program recommendation as soon as practicable.

#### 9. DISCLOSURE OF RECOMMENDATION(S)

a. AO 235. AO 235s authorized for disclosure shall be placed in section 1 of the inmate central file. When disclosure of the AO 235 is questionable, the reverse side of the AO 235 form contains disclosure instructions. In these circumstances, staff must review the language contained in 18 U.S.C. § 4208(b).

b. USA-792. USA-792s authorized for disclosure shall be placed in section 1 of the inmate central file. This form can only be disclosed to the inmate when authorized by the AUSA. When the AUSA has indicated that the report is not to be disclosed, the form should be filed in Section II of the Privacy Folder in the inmate central file and used for program planning purposes. Then, staff must review the language contained in 18 U.S.C. § 4208(c).

If disclosure instructions are not included, staff shall contact the U.S. Attorney's Office to determine their intent.

While staff are not required to respond to a USA-792, it should be made available to the USPC and included in the parole mini-file.

c. AO 245B, AO 245C, AO 245D. AO 245B, C, and D authorized for disclosure shall be placed in section 1 of the inmate central file. When disclosure of the AO 245B, C, or D is questionable, staff should use professional judgment, and file the document where appropriate.

10. INSTITUTION SUPPLEMENT. Each Warden shall issue an Institution Supplement to implement this Program Statement. Institution Supplements shall establish procedures necessary to comply with this directive, and identify the specific staff member responsible for tracking the timely completion of responses. A copy of the Institutional Supplement is to be forwarded to the Regional Correctional Programs Administrator.

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Director

Attachments A through E are Forms AO 235, "Report on Committed Offender;" AO 245B, "Judgment in a Criminal Case;" AO 245C, "Amended Judgment in a Criminal Case;" AO 245D, "Judgment in a Criminal Case for Revocations;" and USA-792, "Report on Convicted Prisoner by United States Attorney."

These forms are not available for electronic reproduction.